JAMES M. BECK

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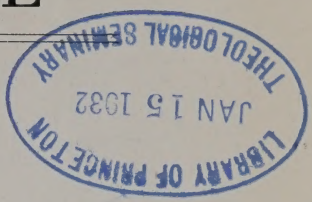


REMARKS OF

Hon. James M. Beck

of Pennsylvania

IN THE

House of Representatives

January 9, 1930

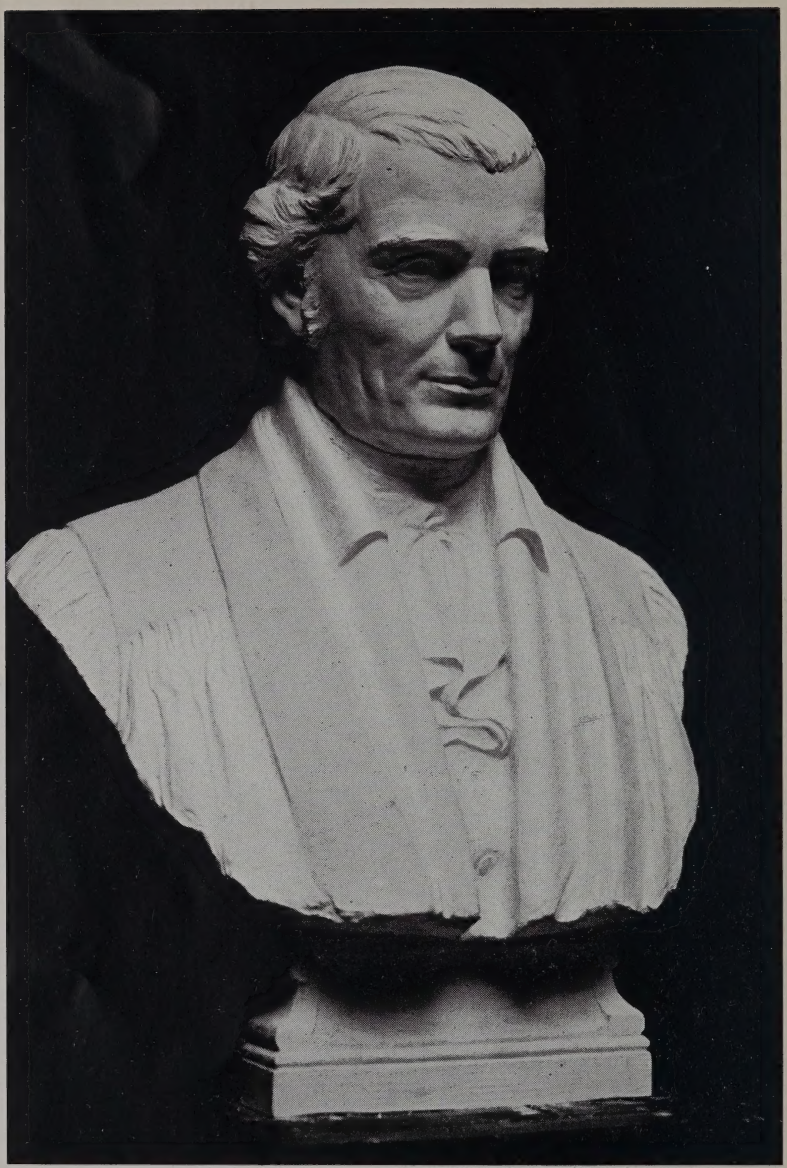
together with an address by

Hon. Joseph Buffington

at the dedication of a memorial to

Chief Justice John Marshall

Reprint from the Congressional Record.



JOHN MARSHALL

REMARKS

OF

HON. JAMES M. BECK

Mr. BECK. Mr. Speaker, ladies, and gentlemen of the House, on January 7 there was dedicated in Philadelphia a memorial to Chief Justice John Marshall. It is a replica of the fine statue by Story which stands on the west side of our own Capitol, and let me say, in passing, that difficult as is the task of the sculptor who attempts to make an effigy of a modern man, William W. Story, the son of Joseph Story, the great associate of John Marshall and himself a scientist, musician, poet, orator, and sculptor gave to the world in his Marshall statue one of the finest portrait statues of modern art.

No one can look at the statue of John Marshall, as the Members of this House must look at it as they pass down the broad flight of stairs of the Nation's Capitol, without being deeply impressed with the benignant character of the face and the eloquence of that upraised hand, by which I imagine the sculptor meant to signify the authority of law, of which, at least in our own country, John Marshall was the greatest exponent.

At the dedication exercises in Philadelphia day before yesterday there were three addresses made, each of which was a notable contribution to the subject. One was made by a leader of the Philadelphia bar, John Frederick Lewis, who gave a very admirable summary of the period of stress in which John Marshall was born, and which developed his great career. The second was by the chief justice of Pennsylvania, who dealt with great propriety and eloquence upon the intimate connection between John Marshall and the city of Philadelphia, a connection maintained from the time that John Marshall fought as a soldier at Valley Forge in the environs of Philadelphia, and only terminating by that incident, which may not be familiar to every Member of the House, but which is of epic beauty. When John Marshall died in the city of Philadelphia and a committee of the bar escorted his body to Richmond the liberty bell was tolled for the last time, for the crack in the liberty bell then developed and the iron tongue which had noted the birth

of our Nation was silenced forever. How could it end more fittingly than by noting the passing of the greatest Chief Justice that the United States has ever known?

However, I am chiefly inviting the attention of the House to the third address because of its peculiar felicity and propriety. It was delivered by the Hon. Joseph Buffington, the senior circuit judge in the third circuit of the United States.

Webster once said that the three attributes of a great oration were the man, the subject, and the occasion. Well, the occasion, the dedication of this statue, was in itself eloquent. The subject, John Marshall, was of such eloquence that one might say as Lincoln said of Washington, that one need only name him and in its naked, deathless splendor leave the great name of Marshall to shine on; and in this case there was the man, Joseph Buffington. Buffington was appointed to the United States district bench in 1892, and has therefore served nearly 38 years on the Federal bench. This is not only the longest peroid of judicial service of any Federal judge now living, but also the longest period of any Federal judge living or dead. Marshall served for 34 years. There may have been a few judges of the past who served longer than Marshall, but the longest period of service on the Federal bench in the annals of the Republic unquestionably is that of Joseph Buffington, who still presides in the third circuit with great distinction to himself and great value to the public. In his incorruptible integrity and fine, unwearying devotion to the duties of his great office, Joseph Buffington as a jurist is of the breed of John Marshall. What more could be, or need be, said in his praise?

Therefore, there was peculiar beauty in this tribute of the oldest circuit judge of the United States to the great Chief Justice, and I only claim the attention of the House to ask unanimous consent that I may revise and extend my remarks by printing in the Appendix the noble tribute of Joseph Buffington to the memory of John Marshall and to express the pleasure that it gives me to have made today this modest tribute to a distinguished living judge, a worthy follower of Marshall in all the great traditions of the bench.

Remembering his years and his long service, I voice the prayer of Horace, that he "may get late to heaven"; and in the meantime enjoy that which on the authority of Shakespeare is said to be the just rewards of an honored age, namely, "love, honor, obedience, and troops of friends." [Applause.]

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Statue of John Marshall, gift of Hon. James M. Beck, to the city of Philadelphia. It is a replica of the statue in the Capitol grounds at Washington. Present at the unveiling were United States Judges Oliver B. Dickinson, Joseph Buffington, J. W. Thompson, and Wm. H. Kirkpatrick.

JUDGE JOSEPH BUFFINGTON'S ADDRESS

It is a new departure for the United States Government to permit one of its great statues to be duplicated and reproduced in another setting. There was just warrant for such action in the present case. The noble bronze figure of John Marshall, which rightly has a most prominent place at the Capital, was the gift of the Bar of Philadelphia to the United States. To now permit a member of that Bar* to reproduce the statue here in Philadelphia is a fitting acknowledgment by the Government of its appreciation of the original gift. Not only so, but John Marshall's life was particularly linked with the City of Philadelphia and the Commonwealth of Pennsylvania. It was after his long and arduous work was finished that John Marshall came to Philadelphia for surgical relief, and it was here that his great soul joined the company of the Immortals. In another sense, we may say that John Marshall was born on Pennsylvania soil, for it was on the soil of that Commonwealth that John Marshall was born anew. He came to Pennsylvania's Valley Forge a Virginian; he left it an American. The great spirit of the expounder of the Constitution had its birth and came from the travail of that winter at Valley Forge. His noble constitutional opinions, to my mind, sprang from the lessons learned in the school of bitter experience at Valley Forge.

Marshall's career as a soldier has largely been overlooked. His father foresaw the coming of the Revolutionary struggle and himself drilled in arms his sons, so that they, as well as their father who also served at Valley Forge, were ready to take part as trained men when the call to arms came. Marshall was in the Battle of the Brandywine and the Battle of Germantown, and later on at Monmouth. Moved by this bronze memorial coming here to Philadelphia, I trust that at some future day a fitting tablet or monument placed on the Hills of Valley Forge, on the very spot where Marshall spent that memorable winter will carry to the people from all sections of the United States, who in increasing numbers visit this greatest shrine of American independence, the fact that John Marshall bore his part in the rigors, the sufferings, the lessons of Valley Forge.

Representing, sir, as I do at your invitation, the Federal

*Hon. James M. Beck, Member of Congress.

Judiciary, I cannot refrain from recording the fact that there is no Federal Circuit in the country that bears the relation to the Federal Constitution, of which Marshall was the great expounder, as does our own. The State of Delaware was the first to adopt the Constitution; the State of Pennsylvania the second; the State of New Jersey the third; and the stars of these three States which make up the Third Circuit stand at the head of the State stars of the Flag.

Great men have no need that we praise them. The urge on us is to know them. To my mind, John Marshall was the real father and creator of the Constitution, because the bone and sinew of that Constitution sprang from his loins. When he came to the Bench, the Constitution was a mere theory, an untried, visionary experiment in Government, a mere scrap of paper. When he ended his career thirty-four years afterwards, he had breathed the breath of life into its body. He had forged a writing into sinewy strength. He had fashioned the ship of state to withstand the perils and powers of disunion. He had begotten the soul of a nation. He had made self government by liberty-loving people possible for all sorts and conditions of men. The Government of the Western Hemisphere today, beginning with self-governing Canada on the north and ending with the southernmost of the Latin Republics on the south, are all the unconscious children of this great Father of the American Constitution. All honor to the great minds who conceived its principles, formulated its articles, and brought to birth a nation to be founded on a constitution, but it was Marshall who took the puny, struggling, helpless, weakling child into his strong arms, his great patriotic heart, and made its sinews strong as steel. At Valley Forge Marshall had seen, and suffered from, the weakness of a mere federation of states subordinating the interests of a so-called union to their own local selfishness. In cold and hunger he had agonized from the impotence of a Continental Congress without power to enforce what it decreed. He had sensed the weakness, the froth, and the talk without action of that Congress, and it was Valley Forge that burned into the soul of Marshall the conviction that to be a Government by Constitutional law, the Constitution must be clothed with power to effect what it enacted. At Valley Forge he learned the lesson of a broad, all inclusive spirit of nationalism, the catholicity of the national soul which Washington inspired and acted on, and from it all he had learned the lesson that sectionalism, local-

ism, had to give way to a patriotism that included the whole nation. In a word, he had learned the lesson that if America ill-clad, hungering around the watch fires of Valley Forge he built up that courage, conviction, character—that intangible, unweighable, unbuyable thing that in the true man rings true and responds to every strain and stress. It was on this trinity,—first, a constitution with self-perpetuating power, second, a patriotism that saw the nation as a whole, and lastly the simple, pure, unblemished depth of soul—that worked out in John Marshall the unity of a great soul, a great judge who made possible a great line of statesmen, who became possible because they trod in his footsteps and followed his interpretation of the Constitution. Coupled with it all was the simple, modest, God-fearing man, for to this day they show you in the city where John Marshall lived the pew in the church where in the rest days of his great human task he took time to draw near to Him who is the source and foundation of right and justice. He was an humble-minded man, but in the really great, humility adds a cubit to a great man's stature. He had no call to magnify himself or magnify the office he held. He made it great because he filled it. Like Saul of old, he towered above his brethren. Big as have been many of the men who followed in his judicial footsteps, no one has ever succeeded him. The mantle of Elijah fell on the waiting shoulders of Elisha because of the double spirit of Elijah for which Elisha prayed. But the mantle of John Marshall was of a titan girth which those who followed him, great as they were, have never filled. In the role of the Federal Judiciary, Marshall stands so high, so massive, so alone, that he is a pattern for his fellows to follow but never to surpass. The times, the need of the hour, united to make Marshall the jurist whom other times and other needs could not duplicate. He was a foundation builder. As a soldier, he fought to gain liberty for his country and as an expounder of the Constitution it was his happy fate to make that liberty secure and self-perpetuating. As a soldier he fought to create his country; as a constitutional expounder, he called into being the mighty constitutional powers Lincoln needed and used so that Government for the people should endure. In rich measure he united the fervor and self-effacement of the patriot, the vision of the seer, the constructive soul of the builder. His work was sub-soil, the undersurface work which lays the foundations, which, hidden from common view, make safe the towering

was to be governed for the people, it must be for all the people and not for any particular section of the Union. Shivering, structure of the nation's growth. In the building of that temple of state, the soul, the foresight, the courage, the great brain of Marshall hewed to form and set to place the corner-stones of the temple and though as of old, those stones which the mere surface-builders of his time and the demagogues of his generation rejected, but which, when stress and strain came and the Nation was in the travail of a new birth, proved themselves the headstones of the corner.

John Marshall was simple in his daily walk of life. His modesty and humbleness of demeanor only served to magnify his real greatness. It was Henry Clay's estimate of him that he was cherished—I use Clay's words—"for his artless character and his uniformly amiable and unostentatious deportment both in his public and private relations." This simplicity he carried into his judicial opinions. No wordy eloquence, no hair-splitting discussions, no vain display of learning, nothing of the tricks of rare words or startling contrasts, mar his decisions. In them we find naught but the pure, simple words drawn from the undefiled fountain of common English speech which formed the medium by which with plain and unerring logic Marshall wrote the decisions which bottom and buttress our national perpetuity, following that wise direction of Holy Writ "write the vision and make it plain upon tables, that he may run that readith it."

I bespeak the spirit of my judicial brethren of the Third Federal Circuit when I thank those in charge of this interesting ceremony and donor of this statue, that we have been asked to take part in the services of the day.

Far beyond the eloquence of words, this silent figure in bronze will speak to us its lessons of a great soul, blameless in life, wise in judgment, fearless in action, and inspire us to serve our priesthood at the altar of justice and "do our duty in that state of life unto which it hath pleased God to call us."

from Original
by Brown, now in possession
of F. Lewis Marshall, Esq
Culpeper - Va

W.H.W.

Chief-Justice
J. Marshall

To Jos Buffington
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